



NFCC
National Fire
Chiefs Council

The professional voice of the
UK Fire & Rescue Service

National Fire Chiefs Council
West Midlands Fire Service
99 Vauxhall Road
Birmingham
B7 4HW

Telephone +44 (0)121 380 7311
Email info@nationalfirechiefs.org.uk

Planning for the Future Consultation
Ministry of Housing, Communities and Local Government
3rd Floor, Fry Building
2 Marsham Street
London
SW1P 4DF

Sent via email to: planningforthefuture@communities.gov.uk

29 October 2020

Planning for the Future Consultation

To the Ministry of Housing, Communities and Local Government,

Please find attached the National Fire Chiefs Council (NFCC) response to the consultation paper published on 6 August 2020 titled '*Planning for the Future.*'

NFCC is the professional voice of the UK fire and rescue services (FRS) and is comprised of a council of UK Chief Fire Officers. This submission was put together by NFCC's Protection Policy and Reform Unit (PPRU).

NFCC supports the ambition to achieve a modern streamlined system that promotes improved and sustainable design to deliver much needed housing and infrastructure. However, this needs to be provided via a robust process that results in safety for residents, occupants, the wider community and firefighters alike. There should not be conflict between a streamlined planning process, sustainability and fire safety.

NFCC believes that there needs to be a significant cultural shift in the industry to improve competency levels and ultimately improve building safety for all. NFCC supports initiatives which could facilitate such a shift. Change needs to start at planning stage to be meaningful, comprehensive and effective.

Uncontrolled building work

Proposed changes should not be carried out in isolation to other linked regulatory functions. Our members have encountered a misconception from applicants that planning permission is the only approval required to build; a number of owners/developers are not consulting Building

Control Bodies. More needs to be done to identify and report uncontrolled building work (where building work is taking place which should be subject to control by a BCB but this is effectively being evaded) in order to better ensure public protection. We highlight comments made by the Future of Building Control Working Group¹ in this regard.

Adequate firefighting water

It is a major concern that housing estates are being built without provision for water for firefighting and those dwellings are being inhabited. Current guidance for the provisions for the supply of water for firefighting is too vague, deficient in ensuring appropriate water supply, and in need of updating.

An express requirement should be introduced so that all planning approval for buildings, no matter the size or usage, have an adequate water supply for firefighting. We would also like to see a requirement for inclusion in Local Plans, that an adequate supply exists for any planning 'areas' which are to be designated for growth or regeneration.

Modern Methods of Construction

A lack of large-scale fire test research and data, coupled with a period where construction quality and competence has been acknowledged as questionable, does not provide us with confidence that all Modern Methods of Construction are receiving the appropriate level of scrutiny needed for such new and innovative approaches.

In recent high-profile fires across the country, e.g. Barking Riverside, Worcester Park and Beechmere care home in Crewe, construction methods have been questioned.

National guidance as indicated within the consultation e.g. the updated National Planning Policy Framework, National Design Guide, National Model Design Code and the revised Manual for Streets must contain appropriate information to inform all involved of the need to consider fire safety at the earliest opportunity.

Reduction in timescales

The move to a system where regulatory 'red tape' is reduced from 10 years to 30 months to meet a statutory timetable, is viewed with caution. This is particularly so where outline approval is considered automatically granted or where there would be a statutory presumption in favour of development being granted. There is the very real potential for timeframes for effective consultation to be reduced to unrealistic levels with stakeholders' comments not being given due regard.

Permitted Development Rights

While not the focus of the consultation, the proposal to widen and change the nature of permitted development rights (PDR) is identified, to enable forms of development to be approved easily and quickly.

¹ <https://www.labc.co.uk/sites/default/files/2020-07/EXT.Future-of-Building-Control-strategy-version-14-07-20-DF.v1.pdf>

NFCC has concern around the conversion of commercial premises to multiple residential buildings under PDR. Experience of FRSs show such conversions have contributed to the number of buildings with fire safety issues. Therefore, an extension of PDR could inadvertently lead to a further increase in buildings with fire safety issues at a time when the regulatory system is struggling to deal with those already built.

One solution could be a requirement that the whole of a building converted to residential purpose under PDR comply with the Building Regulations, rather than just that part subject to actual building work.

These comments are presented as overarching observations to the proposals as we feel others will be best placed to address specific questions in the consultation.

We trust the attached submission is helpful and welcome further discussions following the outcome of the consultation: BuildingSafetyTeam@nationalfirechiefs.org.uk.

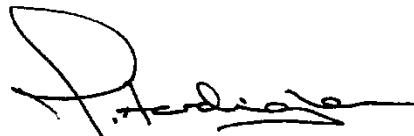
Yours sincerely,

Roy Wilsher



Chair, National Fire Chiefs Council

Mark Hardingham



NFCC Protection and Business Safety Committee Chair

Dan Daly



NFCC Protection Policy and Reform Unit

Interaction between planning and other regulatory functions

The proposed changes to the planning process and guidance should not be carried out in isolation to other regulatory functions and supporting guidance as they are inextricably linked, with planning being the initial stage for stakeholders and regulators to engage on the proposals.

NFCC believes it is necessary to highlight the misconception from applicants that planning permission is the only approval they need to build. Planning permission does not demonstrate compliance with the Building Regulations (as amended) or the Regulatory Reform (Fire Safety) Order 2005 (FSO). It also cannot be used to demonstrate compliance with new requirements proposed by the draft Building Safety Bill. After achieving planning permission, people should also consult a Building Control Body, however the experience of our members suggests a number of owners/developers are not following this process. The Future of Building Control Working Group² has recommended that consideration should be given to introducing a duty on Building Control Bodies and Professionals to identify and report uncontrolled building work (where building work is taking place which should be subject to control by a Building Control Body but this is effectively being evaded) in order to better ensure public protection.

Updated guidance to accompany the proposed changes to the planning framework should be explicit in outlining the requirements for the provision of suitable firefighting water / media, as well as access and facilities for the FRS (which should be in accordance with the functional requirement B5 of schedule 1 of the Building Regulations 2010 (as amended)).

Provisions for water for firefighting

NFCC believes that any revisions to the planning system aimed at streamlining approvals processes should be carried out with an overhaul of the guidance in the provision of water for firefighting. This is an area that requires fundamental revisions to include:

- An express requirement that all planning approval for buildings, no matter the size or usage, have an adequate water supply for firefighting. This would normally be provided by the provision of hydrant(s) attached to a suitable size main delivering an appropriate flow rate for firefighting, but may also be complemented or provided by automatic suppression systems, storage tanks, open water sources, or a combination.
- A requirement for adequate firefighting water provision to be included in Local Plans. It should be necessary for any Local Plans to include a confirmation that an adequate supply of firefighting water exists for any planning 'areas' which are to be designated for growth or regeneration. Where this cannot be confirmed, it should be highlighted for any development that this will need to be provided as part of the initial grant of outline planning permission. This may increase the resilience of the proposals for a Fire Statement outlined in the *Building a Safer Future*³ report as it would ensure adequacy of water supplies for all developments, not just those within the scope of the future Building Safety Regulator.
- Better specification of appropriate pressures and flow rates.

² <https://www.labc.co.uk/sites/default/files/2020-07/EXT.Future-of-Building-Control-strategy-version-14-07-20-DF.v1.pdf>

³ <https://www.gov.uk/government/consultations/building-a-safer-future-proposals-for-reform-of-the-building-safety-regulatory-system>

Current guidance for the provisions for the supply of water for firefighting is too vague and is deficient in ensuring appropriate supplies of water for firefighting are achieved. Guidance accompanying the proposed changes to planning should be explicit in these provisions as currently these requirements are only outlined in Approved Document B in support of the Building Regulations. For instance, where growth areas are proposed, consideration of firefighting water supplies at the Building Regulations stage may be too late. As such, NFCC believes that guidance for planning should set out requirements in this area.

Whilst it may not be an issue when building small to medium sized dwellings in areas with existing infrastructure, for new development sites of multiple dwellings on new or brown field sites where a new water main must be laid, appropriate provisions need to be made. The Building Regulations state that *'[a] building shall be designed and constructed so as to provide reasonable facilities to assist firefighters in the protection of life'*. This is open to interpretation as it does not qualify what is reasonable or if this requirement extends beyond the fabric of the building to hydrants, fire suppression systems, water storage tanks and open water supplies. This lack of clarity coupled with a lack of responsibility on developers to provide appropriate water provisions creates a significant challenge for fire services.

It is noted with great concern that there is no requirement to assess the suitability of the existing hydrant for firefighting, feeding a dry riser, etc. The presence of a hydrant within 100m is deemed to be enough to meet the standards, whereas the reality is it may not deliver the required flow rate as outlined in the [National Guidance Document on Water for Firefighting 2007](#), which as previously identified, is in need of updating and preferably elevated to a more robust legal position.

It is a major concern that housing estates are being built without provision for water for firefighting and those dwellings are being inhabited. This lack of provision of water for firefighting has also resulted in other challenges. A considerable number of farms have diversified and legacy state infrastructure sites, such as rail yards, radio mast stations, former MoD garrison sites and WW2 airfields, have been developed into small/medium industrial complexes. Because the unit size is below that stipulated, no water for firefighting has been provided. This puts firefighters and occupants at increased life risk, especially as these sites are almost exclusively in rural areas where water undertaker mains coverage is typically very sparse.

The deregulation of the water industry has led to major challenges in ensuring appropriate provisions of water for firefighting. FRSs have seen a sharp increase in the numbers of self-lay or inset companies laying water mains with little or no involvement of the water undertaker, and no consultation with the fire service.

This can be compounded by water undertakers using 63mm pipes which are unsuitable for affixing hydrants. The connection point of a fire hydrant has an 80mm bore. There is a growing tendency for water undertakers to install 63mm pipes which can halve the output of water through a fire hydrant. There is an increased cost if hydrants must be retrofitted. Currently this is falling on FRSs when the main is adopted by the water undertaker. There may also be challenges installing hydrants to an appropriate main for firefighting, which could ultimately lead to a new main being required, the installation costs for which potentially get charged back to the FRS. The costs can be into the hundreds of thousands of pounds which, for one site alone, could exhaust or even significantly exceed the annual budget for hydrant repair and installation for almost all FRSs.

Another area of ambiguity is the requirement for access for a fire appliance within 45m of the building. Guidance is required with regard to hose laying distances to avoid convenient

interpretations, and should stipulate suitable routes for firefighters to lay a hose (for instance, not point to point on a map, or on the other side of a motorway).

The Water Industry Act 1991 places a duty on water undertakers to install hydrants where requested by the FRS, but the cost for these falls to the FRS for statutory hydrants, not to the developer. The costs associated with providing appropriate water supplies, including hydrants, should be part of the development costs and not be the responsibility of FRSs.

The Town and Country Planning Act 1990 (TCPA) currently provides recourse for developers to be subjected to planning obligations or to make contributions to the cost of any infrastructure required to service a new development. This legislation has been successfully applied to the provision of hydrants by a small number of FRSs, however, it requires close working with the local Planning Authority as this is a planning condition. The application of this can be arduous for FRSs, such as the London Fire Brigade, which has 33 Planning Authorities within its area. The provision of hydrants and the financial burden of installing them on such new development sites is falling to FRSs which, in turn, puts strain on already stretched public funds. This seems outside of the spirit of the legislation, especially given the size and profitability of these developments. NFCC considers the installation of an appropriate number of hydrants would add a negligible additional cost to many development projects.

Assuming the water mains serving the development are either owned by the local water undertaker or adopted by them, the FRS would then take on the responsibility for the inspection and maintenance of any hydrants attached to those mains. It would therefore be welcomed if the provisions for infrastructure such as hydrants on new developments could consolidate the guidance and requirements for land that is to be zoned for growth or regeneration.

It should be a requirement for all developments, no matter the size or usage, to have an adequate water supply for firefighting. This would normally be provided by the provision of hydrant(s) attached to a suitable size of water main delivering an appropriate flow rate for firefighting, but may also be complemented or provided by fire suppression systems, storage tanks, open water sources, or a combination thereof. The consolidation of Section.106 of the TCPA into the Building Regulations would significantly assist in achieving this aim.

Water undertakers and INSET companies can be inconsistent in notifying the FRS when statutory fire hydrants they have requested have been installed and are operational for firefighting. This is also true for private fire hydrants that have been requested by the FRS from the developer of the site. The risk here is that properties are inhabited without the local FRS being told hydrants have been installed and if there is a fire, FRS fire crews can struggle to locate the hydrants to access water for firefighting. This is compounded by water undertakers not fitting the correct British Standards 750 compliant FH cover on the asset which can cause Fire Crews confusion and cause delays in accessing water. The risk is even greater on phased schemes which are increasingly common. Often a phase is finished, the properties are sold and inhabited, but the FRS has no fire cover from fire hydrants in place.

Finally, there is also concern that legislation and / or set performance targets may be driving the wrong incentives for water undertakers, leading to a significant reduction of water available in the network for firefighting. Whilst there are clear responsibilities for water undertakers to support FRSs by boosting water supplies at incidents, in reality this takes time to implement and may not be achievable based on the age and configuration of the water undertaker network. Water undertakers are still most concerned about taking customers out of supply, or possible discoloration issues, even if the Fire and Rescue Service Act 2004 Chapter 21, Part 5 Section 40 states they cannot suffer penalties for discharging responsibilities under this

legislation. It would therefore be helpful if the relevant part of the aforementioned legislation could also be captured in the Water Industry Act.

NFCC notes several of the suggestions to address water for firefighting would require amendments to primary legislation and would welcome further discussion with Government on these points.

Automatic water suppression systems

The water supply issues, outlined above, may not always be able to be resolved in areas designated for growth and renewal. Any guidance written to support planners in applying these changes should seek to qualify water supply issues and look to mandate automatic water suppression systems (AWSS) provision in appropriate circumstances where wider issues with water carriers may not allow minimum standards to be met, the provision of water for firefighting can be complemented by the provision of AWSS. Developments can be enhanced by the proven benefits and performance of AWSS in saving lives, protecting property and reducing the environmental impact / sustainability of developments (see below) in the event of a fire. As such, NFCC believes their inclusion within updated planning guidance already identified is a fundamental need.

In 2017, NFCC and the National Fire Sprinkler Network jointly published the report '*Efficiency and Effectiveness of Sprinkler Systems in the United Kingdom: An Analysis from Fire Service Data*'.

The report presented the following headline results:

- Sprinkler systems operate on 94% of occasions, demonstrating very high reliability.
- When they operate, they extinguish or contain the fire on 99% of occasions.
- In both converted and purpose-built flats sprinklers were 100% effective in controlling fires.

In 2019 further research was conducted into the performance of sprinkler systems in protecting life and reducing the incidence of harm. The full 2017 report can be read [here](#) and the follow up 2019 report can be read [here](#). A reduction in the effectiveness and timeliness of the consultation process will adversely affect any consideration for the benefits of installing these proven systems.

Other regulatory interaction

The ongoing [Technical review of Approved Document B workplan](#) identifies many areas of research that will have an impact on planning proposals, and there are other Approved Documents e.g. parts F (ventilation) and L (conservation of fuel and power) that are also linked to fire safety as identified in our response to [The Future Homes Standard: 2019 Consultation on changes to Part L \(conservation of fuel and power\) and Part F \(ventilation\) of the Building Regulations for new dwellings](#). As mentioned, the current 3rd edition of the [National guidance document on the provision of water for fire fighting](#) is from 2007 and requires reviewing and updating to reflect current regulatory requirements and practices and to ensure that the guidance is fit for purpose.

Failure to provide effective guidance for planners could result in retrospective works being required, subsequent enforcement action being taken, and premises being provided with insufficient facilities to protect residents, occupants, the wider community and firefighters and placing them at increased risk in event of fire.

Innovation, design and sustainability

NFCC supports the move towards increasing the energy efficiency of new homes and reducing the environmental impact when they are built, however, this should not come at the expense of safety. Premises need to be constructed to a safe and high standard, notwithstanding the need to create new homes quickly and sustainably. Modern methods of construction (MMC), encompassing different materials and methods, play a key part in providing this much needed housing and infrastructure. However, NFCC has concerns over some of these methods and how the proposed streamlined planning system changes may promote the issues identified below through a desire to achieve its goals.

Competence, as with any building and construction methodology, and its relationship to fire, is critical to delivering safe premises for occupants and firefighters alike. This knowledge and understanding of MMC, and related building safety, should encompass competency throughout a premises' lifecycle and include the planning process alongside design, approval, construction, occupation, management, and any future alteration. This will be key in achieving the consultation's proposal 23 to develop a comprehensive resource and skills strategy for the planning sector to support the implementation of the proposed reforms.

The drive for sustainable and higher quality buildings must be balanced with the need to ensure that new and existing building stock achieves a high degree of fire safety. The apparent lack of large-scale fire test research and data, coupled with a period where construction quality and competence has been acknowledged as broken by the Independent Review⁴, does not provide us with confidence that all MMC are receiving the appropriate level of scrutiny needed for such new and innovative approaches. In our view, there should not be a conflict between streamlined planning, sustainability, improved building standards and fire safety. This not only feeds directly into the planning and design process but allows greater understanding of how the building will perform in fire, which in turn enables FRSs to develop their operational response.

There have been several high-profile fires across the country, e.g. Barking Riverside, Worcester Park and Beechmere care home in Crewe, where construction methods have been questioned. Investigating and learning from these incidents will contribute to the information required to allow such methods to be safely used when supported and informed with comprehensive, robust, validated and appropriate test data and research.

NFCC believes that Government together with the fire and construction sectors still have a long way to go to ensure that the fundamental changes needed are realised. Significant cultural change in the system must take place to improve competency levels across the sector, and to ensure that MMC is promoted and used in a manner which provides safe buildings for all. This commences at the planning stage.

⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707785/Building_a_Safer_Future_-_web.pdf

It is important the national guidance as indicated within the consultation including those having a direct bearing on the design of new communities e.g. the updated National Planning Policy Framework, National Design Guide, National Model Design Code and the revised Manual for Streets; contain appropriate information to inform all involved of the need to consider fire safety at the earliest opportunity. This will ensure fire safety is embedded throughout the process and will inform the proposed localised design guidance and codes overseen by the proposed Chief Officer. The establishment of the proposed new body to support the delivery of design codes in every part of the country is welcomed where it is informed as identified.

A simple, clearer and quicker system

NFCC accepts the need for the provision of housing and infrastructure to be supported by a planning system that allows the delivery to be as succinct as possible through a simple, clear and consistent system. However, the system also needs to be robust to deliver the premises safely, ensuring all stakeholders have an appropriate and adequate framework that is supported by realistic timeframes to allow observations and comments to be made, and more importantly, acknowledged.

The move to a system where regulatory 'red tape' is reduced from 10 years to 30 months as indicated in the consultation, to meet a statutory timetable, is viewed with caution. There is the very real potential for timeframes for effective consultation to be reduced to unrealistic levels with stakeholders' comments not being given due regard.

The proposal to identify land into one of three categories to facilitate the desired reduction in timeframes gives rise to concern, where:

- *Growth* (areas suitable for substantial development) – where outline approval for development is considered automatically granted.
- *Renewal* (areas suitable for development) – where there would be a statutory presumption in favour of development being granted for the uses specified as being suitable in each area.

Note: NFCC has no specific observations at this time on areas designated as Protected other than protection of this country's heritage through the proposed introduction of stringent development controls is welcomed where this does not affect safety.

NFCC acknowledges there would still be a requirement for detailed planning permission to be granted for *growth* and *renewal* areas, albeit via the proposed streamlined and faster consent routes focusing on the areas outlined in the consultation. This is exacerbated with the intention to introduce a 'fast-track for beauty' through changes to national policy and legislation for proposals which comply with local guides and codes and to incentivise and accelerate development. However, as outlined in our response above, by including a requirement to provide adequate water supplies for firefighting prior to categorising development areas, some of our concerns may be allayed.

Permitted development

While not the focus of the consultation, the proposal to widen and change the nature of permitted development rights (PDR) is identified, to enable forms of development to be

approved easily and quickly. NFCC has concerns over the application of PDR and potential deficiencies, especially around a change of use from commercial/office to residential.

Experience of FRSs shows that conversions of offices to housing has produced buildings with a wide range of defects e.g., inadequate compartmentation, unsafe external wall systems, inappropriate ventilation systems etc., often making them unsafe for occupancy. NFCC is concerned how the conversion of commercial premises to multiple residential buildings under PDR has already increased the number of buildings with fire safety issues, and further, that an extension of PDR could inadvertently lead to a further increase at a time when the regulatory system is struggling to deal with those already built.

A solution could be to require the developer to consult with the FRS if PDR was being applied, and for any PDR conversion to residential or an addition to existing residential premises, to be accompanied with a fire statement. We anticipate that some change will be required to adapt the draft Building Safety Bill to the proposed changes to planning law and suggest this offers an opportunity to address the fire safety challenges raised by PDR conversions at the same time.

For permitted developments, the planning stage should provide the initial opportunity for the FRS to raise concerns about a premises and engage with the applicant, including through Building Control Bodies. This particularly applies to the scenario outlined in the 'A Fast Track for Beauty' section of the consultation, where it appears that the PDR would be extended to a 'type approval' for certain types of premises design in a planning area. It is significantly easier for regulators to work with applicants if engagement takes place at this early stage, with their comments acknowledged and acted upon. This can again avoid the need for retrospective works or subsequent enforcement action. This would help to ensure that a design that may be replicated many times, is safe to occupy in all instances of its use.

Changes made under PDR are still subject to the Building Regulations (as amended) and work that complies with the Building Regulations should generally comply with the RR(FS)O 2005 when managed effectively. However, the Building Regulations (as amended) only apply to the work being done to the building; existing parts of the building that are not directly impacted are not covered.

Where a PDR commences above an existing building there is no requirement to enhance the fire safety measures in that existing part of the building, this places the parts of the PDR at an increased risk from fire developing in the existing building below. This is where there remains a fundamental disconnect between the non-worsening conditions of Building Regulations (as amended), and the expectations of continuous improvement through the fire risk assessment process set by the RR(FS)O 2005. Section 4(3) of the Building Regulations 2010 states that where the work did not previously comply with Schedule 1 that when the new work is complete it should be no more unsatisfactory in relation to that requirement than before the work was carried out. This is commonly interpreted as allowing fire precautions to be removed and replaced on a like-for-like basis – meaning a building can be refurbished many times but the general fire precautions may never get improved to modern standards. This runs contrary to the principles of prevention outlined in the RR(FS)O 2005, that premises risk assessments should adapt to technical progress and reduce overall risk within buildings.

The commonly cited non-worsening provision is resulting in lost opportunities to improve building safety and is a feature of PDR where work will be carried out on existing premises.

One possible solution to these issues could be an amendment to the Building Regulations, under the Fire Safety Bill or the draft Building Safety Bill, requiring the whole of a building converted to residential purpose under PDR to comply with the Building Regulations, rather than just that part subject to actual building work. Such an approach would encourage early engagement between developers and building control bodies and ensure the final residential building meets modern fire safety standards, without impacting on the government's aims in extending PDR.

Enforcement powers and sanctions

The proposal to seek and strengthen enforcement powers and sanctions is welcomed to ensure those failing to comply with the requirements are held accountable. The proposals must be robust and sufficiently resourced with those enforcing the legislation given the resources and support to effectively carry out this vital function.

Digital approach

NFCC supports the move to a digital first approach to modernisation of the planning system where consistent data to accurately inform and related to planning applications is made available to all. This data should be freely accessible to achieve the simple, clear, open and consistent process and format to allow effective and efficient interrogation and subsequent comments and observations to be made. This will only achieve what is required if the digital infrastructure is sufficiently resourced and robust.

Where effective, this will support and inform the Golden Thread of building information at the earliest stages of development, allowing those responsible to effectively manage and maintain a premises' safely throughout its lifecycle. This will also support and inform the use of *British Standard 8644 Digital Management of Fire Safety Information for Design, Construction, Handover and Emergency Response. Code of Practice*, currently in development.

NFCC recommends that consideration is given to a digital system which preserves and / or links address data through the formal building design, approval, construction and occupation process: from planning through to the completed building via the Building Regulations stage. Ideally this would consist of address metadata, or a reference number similar to the existing unique premises reference number (UPRN), that clearly links through these formal stages, and which all agents (designers, approvers and consultees) can use in common. This will account for common building name and address modifications which occur through a premises planning, design, build, occupation and alteration cycle, and which would assist in the preservation and consistency of the Golden Thread of information required for all premises.